

4/28/83

DEPARTMENT OF TRANSPORTATION

U. S. COAST GUARD

STATEMENT OF

REAR ADMIRAL CLYDE T. LUSK, JR

CHIEF, OFFICE OF MERCHANT MARINE SAFETY

UNITED STATES COAST GUARD

BEFORE

THE HOUSE SUBCOMMITTEE ON COAST GUARD AND NAVIGATION

AND

THE HOUSE SUBCOMMITTEE ON MERCHANT MARINE

REGARDING

H.R. 2247

A BILL TO CONSOLIDATE AND REENACT CERTAIN OF THE MARINE SAFETY
AND SEAMAN'S WELFARE LAWS OF THE UNITED STATES

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I AM REAR ADMIRAL CLYDE T. LUSK, JR., CHIEF OF THE OFFICE OF MERCHANT MARINE SAFETY, UNITED STATES COAST GUARD HEADQUARTERS. I AM HERE TODAY TO PRESENT THE VIEWS OF THE DEPARTMENT OF TRANSPORTATION ON H.R. 2247, A PROPOSAL TO CONSOLIDATE THE MARINE SAFETY LAWS WHICH ARE ADMINISTERED BY THE COAST GUARD.

AS YOU ARE AWARE, THIS BODY OF LAW HAS EVOLVED GRADUALLY SINCE 1789, AS THE CONGRESS RESPONDED TO MARINE DISASTERS, THE CHANGING ECONOMY, AND VARIOUS PUBLIC INTERESTS. THIS EVOLUTION HAS LED TO A TITLE 46 WHICH CONTAINS CONFLICTS AND DUPLICATION; ONE WHICH IS CONFUSING, CUMBERSOME, AND OCCASIONALLY UNUSABLE. I NOTE THAT THE SUPREME COURT HAS REFERRED TO THIS BODY OF LAW AS "A MAZE OF REGULATION."

THIS "MAZE" HAS LEFT INDUSTRY OFTEN UNABLE TO DETERMINE WITH CERTAINTY WHAT IS REQUIRED OF IT, AND THE COAST GUARD ON OCCASION UNABLE TO DETERMINE WITH CERTAINTY WHAT STANDARDS IT SHOULD ENFORCE. CURRENT INDUSTRY PRACTICE IS TO RELY ON A MIX OF LAW, REGULATION, COMMON SENSE, CUSTOM, AND TRADITION. IT IS TIME TO BRING ORDER TO THIS AREA OF THE LAW.

ON 26 JANUARY 1983, SENATOR PACKWOOD, CHAIRMAN OF THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, INTRODUCED S. 46, A BILL TO CONSOLIDATE AND REENACT CERTAIN OF THE MARINE SAFETY AND SEAMAN'S WELFARE LAWS OF THE UNITED STATES. S 46 WAS NEARLY IDENTICAL TO S. 2660 AND H.R. 7103 WHICH HAD BEEN INTRODUCED LATE IN THE 97TH CONGRESS.

H.R. 2247, RECENTLY INTRODUCED BY CHAIRMAN STUDDS, IS A PROPOSAL VERY SIMILAR TO S. 46 AND CONTAINS MANY DRAFTING IMPROVEMENTS MADE BY THE LAW REVISION COUNSEL. IT, AND S. 46, HAVE NOW BEEN REVIEWED BY PERSONNEL OF THE COAST GUARD, THE HOUSE COMMITTEES, AND INNUMERABLE COMMERCIAL AND LEGAL ORGANIZATIONS. THROUGHOUT THIS LONG PROCESS THE COAST GUARD HAS STEADFASTLY ADHERED TO THE PREMISE THAT THE BILL SHOULD RESULT IN A RESTATEMENT OF THE EXISTING PROVISIONS OF TITLE 46 WITHOUT SUBSTANTIVE CHANGE OF A CONTROVERSIAL NATURE.

PRIOR EFFORTS TO CLARIFY THIS BODY OF LAW HAVE NOT MET WITH SUCCESS. THE EFFORTS OF 1929, 1949, 1967, AND 1971 ALL FAILED FOR REASONS WHICH HAVE NOW BECOME OBSCURE. HOWEVER, WITH THE PROPOSAL NOW BEFORE THE COMMITTEE, THE DRAFTERS HAVE, FROM THE OUTSET, BLENDED IMPROVEMENT IN THE ORGANIZATION OF THE LAW AND CAUTIOUS RESPECT FOR THE RULE THAT THERE SHOULD BE NO CONTROVERSIAL SUBSTANTIVE CHANGE. THE EXTENSIVE PARTICIPATION OF INDUSTRY, LABOR, THE BAR, AND THE CONGRESS IN THE DRAFTING AND REFINING PROCESS HAS PLACED A CENTURY-OLD GOAL OF THE MARITIME COMMUNITY WITHIN OUR GRASP.

I SUBMIT THAT THE CLOSE SCRUTINY TO WHICH THESE PIECES OF LEGISLATION HAVE BEEN SUBJECTED, COMBINED WITH THE PHILOSOPHY UNDERLYING THIS LONG LEGISLATIVE EFFORT, HAS PRODUCED A BILL WHICH IS NOW RIPE FOR PRESENTATION TO THE ENTIRE CONGRESS. THE COAST GUARD REMAINS EAGER TO PROVIDE ITS CONTINUING ASSISTANCE IN HELPING TO BRING THIS ENDEAVOR TO A SUCCESSFUL CONCLUSION.

NOT EVERY AGENCY WITHIN THE ADMINISTRATION HAS COMPLETED ITS REVIEW OF H.R. 2247. THEREFORE, MORE TECHNICAL COMMENTS MAYBE FORTHCOMING.

THIS CONCLUDES MY PREPARED STATEMENT. I WILL BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.